

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DENNIS ROZADILLA,

No. C-0909 MEJ

Plaintiff,

**ORDER SETTING HEARING DATE ON
ORDER TO SHOW CAUSE**

vs.

MICHAEL HENNESSEY,

Defendant.

On January 1, 2007, the parties in this matter filed a stipulated order for plaintiff's mental exam. On January 29, pursuant to the stipulation, the Court ordered Plaintiff to undergo an independent medical evaluation. On August 8, 2007, Defendants filed their, MOTION FOR SANCTIONS AGAINST PLAINTIFF AND/OR PLAINTIFF'S COUNSEL FOR PLAINTIFF'S REPEATED FAILURE TO ATTEND HIS COURT-ORDERED INDEPENDENT PSYCHOLOGICAL EXAMINATION, stating that although Plaintiff had been scheduled for Court ordered medical examinations on three separate occasions, he had, as of that date, failed to undergo a complete examination: On two occasions Plaintiff had failed to appear for the exams, and on one occasion he appeared but was unable remain awake, and therefore was unable for the full duration of the exam.

The Court held a hearing on October 11, 2007. The Court put over deciding the issue of sanctions for another date, but ordered Plaintiff to complete the previously ordered psychological

1 examination by October 23, 2007, and if he did not complete the exam by that date, to appear before
2 this Court on October 25, 2007, and show cause why he shouldn't be sanctioned for failure appear
3 and complete the exam. At the October 11, hearing Plaintiff, through his attorney Mr. Cunningham,
4 asserted that Plaintiff's inability to remain awake during the exam Plaintiff did attend was caused by
5 medication prescribed by Plaintiff's physician. The Court therefore, ordered Plaintiff to submit to the
6 Court documentation, including prescription and other documentation that would tend to prove this
7 assertion.

8 At 10:00 a.m., on October 25, 2007, during its regular calendar, Mr. Bonta, attorney for the
9 Defendants, appeared and represented to the Court that his office had scheduled an examination for
10 October 23, 2007. Mr. Bonta further stated that Plaintiff did attend the October 23rd exam, but that
11 Plaintiff arrived 1 ½ hours late and began nodding off a during the exam. As a result, the second half
12 of the exam could not be completed and was rescheduled for October 25, 2007, at 11:00 a.m.. The
13 Court notes that this was in violation of its order to have the exam completed by October 23.

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15 The Court ORDERS as follows:

16 The **Plaintiff and his attorney** shall appear for a hearing on November 8, 2007, in
17 Courtroom B. 450 Golden Gate Avenue, San Francisco, California, and show cause why sanctions
18 should not be imposed on the Plaintiff and/or his attorney for Plaintiff's repeated failure to appear
19 and complete his independent medical exam. Plaintiff shall bring to this hearing any documentation,
20 including prescriptions and statements from his physician, tending to prove that his inability to
21 remain awake during the independent medical examination is due to prescribed medications.

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24 **IT IS SO ORDERED.**

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26 Dated: October 25, 2007



MARIA-ELENA JAMES
United States Magistrate Judge

United States District Court
For the Northern District of California

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